

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JAMES LEE SHIELDS,

Plaintiff,

v.

STEVE LONG, et al.,

Defendants.

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No. 4:06-CV-0682-CEJ

**MEMORANDUM AND ORDER**

This matter is before the Court upon the instructions of the Eighth Circuit Court of Appeals to enter an order calculating and collecting appellate filing fees from plaintiff James Lee Shields (Reg. #119829) pursuant to Henderson v. Norris, 129 F.2d 481 (8th Cir. 1997).

Title 28 U.S.C. 28 U.S.C. § 1915(a) (2) requires a prisoner seeking leave to appeal in forma pauperis to submit an affidavit that includes a statement of his assets and of his inability to pay the fees and a certified copy of his prison account statement for the six month period immediately preceding the filing of the notice of appeal. Further, § 1915(b)(1) requires a prisoner seeking leave to proceed on appeal in forma pauperis to pay the full amount of the filing fee. If the prisoner has insufficient funds in his prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account; or (2) the average monthly balance in the prisoner's account for the prior six month period. See 28 U.S.C. § 1915(b)(1). After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. See 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner is

to forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid.

A review of plaintiff's account statement indicates an average monthly deposit of \$101.00, and an average monthly account balance of \$68.16. Plaintiff has insufficient funds to pay the entire \$455.00 filing and docketing fees for an appeal at this time. Accordingly, the Court will assess an initial partial filing fee of \$20.20, which is 20 percent of plaintiff's average monthly deposit.

In accordance with the foregoing,

**IT IS HEREBY ORDERED** that plaintiff shall have until March 25, 2011 to pay an initial partial filing fee of \$20.20 towards the \$455.00 filing and docketing fees for an appeal. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison identification number; (3) the case number; and (4) that the remittance is for the appeal of the instant action.

Dated this 23rd day of February, 2011.

  
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CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE